



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 08/2025
WITH
CRIMINAL WRIT PETITION NO. 09/2025

CRIMINAL WRIT PETITION NO. 08/2025

Sagar s/o Pralhad Sonawane,
Age 39 yrs., Occ. Service, as
State Tax Inspector,
Permanent Address R/o. Plot No.88,
Shramasafalya Colony, Deopur Dhule,
at present R/o. 204/Shri Ganesh Building,
Somanson City, Bhoirwadi, Kalyan West.

...PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
2. Superintendent of Police,
Dhule Dist. Dhule,
Address Sakri Road, Kumar Nagar,
Dhule MS-424002.
3. The Investigating Officer in
FIR Crime No. 393 of 2024
Registered with Dhule City Police Station,
Address C/o. Dhule City Police Station Navnath Nagar
Dhule, Tq. Dhule, Dist. Dhule. MS-424001
(For respondents 1 to 3 copy to be served on the Public
Prosecutor, High Court, Bench at Aurangabad)
4. Dipak Patil,
Police Inspector, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.

5. Ganesh Aghav,
Police Sub-Inspector, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.
6. Kundan Patait,
Police Naik, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.
7. Tushar Pardhi,
Police Constable, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.
8. Shakir Shaikh,
Police Constable, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.
9. Prashant Dileep Nathjogi,
Police Constable, Dhule City Police Station,
Address C/o. Dhule City Police Station,
Navnath Nagar Dhule, Tq. Dhule Dist.
Dhule, MS-424001.

...RESPONDENTS

Mr. Ajinkya S. Reddy, Advocate for petitioner.
Mr. A. D. Wange, Addl. Public Prosecutor for State.

WITH
CRIMINAL WRIT PETITION NO. 09/2025

Govinda S/o. Vikram Chaure,
Age 34 yrs., Occ. State Tax Inspector,
Permanent Address Shiv Post Dang Shirwade,
Tq. Sakri, Dist. Dhule At present R/o. Shreeji Nirwana,
Katrap School Badapur Badlapur East.

...PETITIONER

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...RESPONDENTS

Mr. Ajinkya S. Reddy, Advocate for petitioner.
Mr. A. D. Wange, Addl. Public Prosecutor for State.

CORAM : SMT. VIBHA KANKANWADI AND
ROHIT W. JOSHI, JJ.
DATE : 13.01.2025

JUDGMENT : (PER: ROHIT W. JOSHI ,J.)

Heard.

2. Both these petitions arise out of common set of facts. Grounds of challenge and reliefs sought in both these petitions are same. Therefore, both these petitions are being decided by a common judgment.

3. The petitioner in Criminal Writ Petition No.08/2025 claims that he was arrested on 25.09.2024 at around 03.15 p.m. from his

office i.e. G.S.T. Office, Kalyan in relation to First Information Report (“FIR”) 0393/2024 registered with Dhule City Police Station, Tq. Dhule, Dist. Dhule for the offence under Sections 211, 120-B, 420, 465, 466, 467 and 471 of the Indian Penal Code (“IPC”). It is alleged that although the petitioner was arrested on 25.09.2024, he was produced before the concerned Magistrate on 27.09.2024. It is alleged that the date and time of arrest is wrongly shown as 26.09.2024 at 2016 hrs.

4. The petitioner in Criminal Writ Petition No. 09/2025 claims that he was arrested in relation to the same offence from his office at G.S.T. Mazgaon on 25.09.2024 at around 05.30 p.m. and he was produced before learned Chief Judicial Magistrate (“CJM”) on 27.09.2024 showing the date and time of arrest as 26.09.2024 at 2016 hrs.

5. The petitioners in Criminal Writ Petition Nos. 08/2025 and 09/2025 are arraigned as accused Nos. 1 and 2 in FIR No. 0393/2024 registered with Dhule City Police Station on 27.08.2024. Initially, offence was registered under Section 211 of the IPC which is a bailable offence, Thereafter, Sections 120-B, 420, 465, 466, 467 and 471 of the IPC came to be added on 09.09.2024 and requisite intimation in

this regard was sent to the Court of learned CJM, Dhule. The petitioners have filed on record a communication dated 23.09.2024 issued by respondent No. 4 to respondent No.5 calling upon him to take a custody of the petitioners and produce them before him for the purpose of investigation. The petitioners contend that respondent Nos. 6 to 9 were directed to accompany to the petitioners. The petitioners contend that on 25.09.2024, respondent Nos. 5 and 6 have issued a communication to the Police Station In-charge, Bhaykhala Police Station Thane, Mumbai to provide assistance for taking custody of the petitioners for the purpose of investigation. It is alleged that the petitioner in Writ Petition No. 8/2025 was arrested on 25.09.2024 from his office at Kalyan by respondent Nos. 5 and 8 at around 03.15 p.m. Likewise, with respect to the petitioner in Criminal Writ Petition No. 09/2025, it is alleged that he was arrested by respondent Nos. 6, 7 and 9 on 25.09.2024 at 05.30 p.m. from his office at Mazgaon. It is alleged that both the parties after arresting the respective petitioners, met at Padga Toll Naka and thereafter, the petitioners were taken to Dhule Police Station. It is contended that they reached to the Dhule City Police station on 26.09.2024 at 0555 hrs. The petitioners have stated that they were produced before

learned CJM, Dhule on 27.09.2024 at around 03.19 p.m. In such circumstances, it is alleged that respondents have failed to produce the petitioners before the Court of concerned Magistrate within a period of 24.00 hrs. It is alleged that although the petitioners were arrested on 25.09.2024 itself, the date and time is wrongly mentioned in the arrest memo as 26.09.2024 at 2016 hrs. The petitioners therefore, contend that the arrest and detention is illegal in view of Section 57 of the Code of Criminal Procedure ("Cr.P.C."). It is pertinent to mention here that both the petitioners have also stated that the respondents have committed breach of Sections Sections 41, 41-B, 50 and 50-A of the Cr.P.C of Cr.P.C. However, perusal of petitions would indicate that the averments are absolutely silent with respect to non-compliance or breach of said provisions. The only allegation in petitions is that although the petitioners were arrested on 25.09.2024, they were produced before the Court of concerned Magistrate for the first time on 27.09.2024, beyond a period of 24.00 hrs. The petitioners submit that the respondents are liable to pay compensation to them for keeping them in illegal detention beyond the period of 24.00 hrs. Learned counsel for petitioners has placed reliance on judgment of the

Hon'ble Supreme Court in the matter of *D.K. Basu Vs. State of West Bengal, 1997 (1) SCC 416*.

6. Learned Additional Public Prosecutor ("APP") has strongly opposed these petitions. Learned APP has drawn attention of this Court to the allegation in the petitions to contend that apart from allegations regarding non-compliance of Section 57 of Cr.P.C., there are no allegations in the petitions with respect to non-compliance or breach of any other procedural safeguards and Sections of Cr.P.C. As regards Section 57 of Cr.P.C., learned APP has drawn attention of this Court to the remand application dated 27.09.2024, in which the date and time of arrest is mentioned as 26.09.2024 at 2016 hrs. Learned APP has drawn attention of this Court to the order dated 27.09.2024 passed by learned CJM granting Police Custody Remand ("PCR") of both the petitioners till 30.09.2024. It is pointed out from the order that although both the petitioners were represented by counsel, no grievance with respect to illegal arrest was made during the course of hearing of remand application on 27.09.2024. It is apparent that filing of petition is after thought.

7. We have heard rival submissions as aforesaid and also perused record of the case with the assistance of learned counsel for

petitioners and learned APP. Perusal of record indicates that initially offence under Section 211 of IPC was registered against the petitioners. However, subsequently on 09.09.2024, Sections 120-B, 420, 465, 466, 467 and 471 of the IPC were added. It is apparent that on 23.09.2024, respondent No.4 had issued instructions to respondent No.5 to take Police Personnel comprising of respondent Nos. 6 to 9 along with him in order to take custody of the petitioners and produce them before him for investigation in relation to FIR No. 0393/2024. It appears that on 25.09.2024, respondent No.6 issued communication to PSO, Bhaykhala Police Station to provide assistance for taking custody of the petitioner in Criminal Writ Petition No. 08/2025. As regards the petitioner in Writ Petition No. 09/2025, he has produced extract of visitor register at G.S.T. Office, Kalyan indicates that respondent No.5 had visited the said Office on 25.09.2024 at 03.00 p.m.

8. It is on the basis of these documents, the petitioners contend that they were, in-fact arrested on 25.09.2024 itself. They disputed statement in the remand application regarding the date and time of their arrest.

9. It is apparent that apart from grievance with respect of Section 57 of the Cr.P.C., there are no allegations with respect to non-compliance or breach of Sections 41, 41-B, 50 and 50-A of the Cr.P.C.

10. As regards Section 57 of Cr.P.C., a statutory obligation is imposed on the Police Officer not to detain any person arrested in custody without warrant for a period longer than such period as may be reasonable under the circumstances and that such period shall not exceed 24 hours, in absence of any order from the Magistrate concerned. The said provision imposes an obligation on the Police Officer to produce the person arrested before the Magistrate within a period of 24 hours from the time of his arrest. It appears from the remand application that the petitioners were arrested on 26.09.2024 at around 08.16 p.m. and were produced before learned Magistrate on 27.09.2024 at around 03.19 p.m. Although it is stated that the petitioners were arrested on 25.09.2024 and not on 26.09.2024, perusal of order dated 27.09.2024 passed by learned Magistrate granting PCR upto 30.09.2024 does not indicate that grievance with respect to date and time of arrest was raised by the petitioners. It also needs to be mentioned that the petitioners were represented by counsel during the course of hearing of the remand application. It

also does not appear from the averments in the petitions that grievance in this regard was raised before learned Magistrate i.e. during the course of hearing of application for extension of remand or application for grant of bail.

11. We are of the opinion that the petitioners have failed to bring any credible material on record to substantiate their allegations as regards the date and time of arrest. The petitioners have failed to provide any plausible explanation for not raising the issue before learned CJM during the course of hearing of remand application on 27.09.2024. On perusal of the record, we are of the considered opinion that the petitioners have failed to establish that they were arrested on 25.09.2024 as alleged by them as against 26.09.2024 which is the date of arrest mentioned in the remand application.

12. In view of aforesaid, the petitions deserve to be dismissed and are dismissed as such with no order as to costs.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

Gohane